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12 SAMSUNG ELECTRONICS AMERICA, INC.

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14 UNITED STATES DISTRICT COURT
15 NORTHERN DISTRICT OF CALIFORNIA
16 SAN JOSE DIVISION
17

18 In re *Ex Parte* Application of:
19 CONSUMERS' ASSOCIATION,
20 Petitioner for an Order Pursuant to 28 U.S.C.
21 § 1782 to Conduct Discovery for Use in a
22 Foreign Proceeding

Case No. 5:23-mc-80322-EJD

**STIPULATION AND PROPOSED ORDER
EXTENDING TIME FOR SAMSUNG
SEMICONDUCTOR, INC. AND
SAMSUNG ELECTRONICS AMERICA,
INC. TO FILE MOTION TO QUASH
WHICH?'S AND QUALCOMM'S
SUBPOENAS**

23 In re *Ex Parte* Application of:
24 QUALCOMM INCORPORATED,
25 Application for an Order Pursuant to 28 U.S.C.
26 § 1782 Granting Leave to Conduct Discovery
for Use in a Foreign Proceeding

Case No. 5:24-mc-80019-EJD

Judge: Edward J. Davila

Case No. 5:23-mc-80322-EJD
Case No. 5:24-mc-80019-EJD

Whereas on December 7, 2023, Consumers' Association ("Which?") filed an *ex parte* application in this miscellaneous action pursuant to 28 U.S.C. § 1782 for permission to seek discovery from Samsung Semiconductor, Inc. ("SSI"), Samsung Electronics America, Inc. ("SEA"), and Apple, Inc. for use in a foreign proceeding against Qualcomm Incorporated in the United Kingdom ("U.K. Class Action") pending before the United Kingdom Competition Appeal Tribunal.

Whereas on January 23, 2024, the Court granted Which?'s *ex parte* application "WITHOUT PREJUDICE to any argument that may be raised in a motion to quash or modify the subpoena from Apple and the Samsung Entities," and further ordered that "Apple and the Samsung Entities may file—no later than 30 days after service or notice—a motion to quash or modify the subpoenas before this Court[.]" (ECF 21 at 7.)

Whereas on January 29, 2024, SSI received a copy of Which?'s subpoena, and SEA was served with Which?'s Subpoena on February 2, 2024.

Whereas, SSI and SEA timely served written objections to Which?'s Subpoenas pursuant to F. R. Civ. P. 45.

Whereas on January 26, 2024, Qualcomm Incorporated filed a separate *ex parte* application pursuant to 28 U.S.C. § 1782 to seek discovery from SSI and SEA, and Apple for use in the U.K. Class Action. *In re Ex Parte Application of: Qualcomm Incorporated*, 5:24-mc-80019-NC (N.D. Cal.)

Whereas on February 7, 2024, the Court ordered to relate Qualcomm's separate action to Which?'s present action. (ECF 24.)

Whereas on February 9, 2024, the Court also granted Qualcomm's separate *ex parte* application "WITHOUT PREJUDICE to any argument that may be raised in a motion to quash or modify the subpoena from Apple and the Samsung Entities" and also ordered that "Apple and the Samsung Entities may file—no later than 30 days after service or notice—a motion to quash or modify the subpoenas before this Court." *In re Ex Parte Application of: Qualcomm Inc.*, 5:24-mc-80019-EJD, ECF 14 at 6.

1 Whereas Qualcomm has not yet served subpoenas on SSI or SEA, but has asked outside
2 counsel for SSI and SEA in this matter whether they will accept service of its subpoenas.

3 Whereas SSI and SEA are willing to accept service through outside counsel if Qualcomm
4 agrees to extend the motion to quash deadline until April 3, 2024.

5 Whereas the parties need additional time to meet and confer in order to explore whether a
6 compromise can be reached that would obviate the need for a motion to quash.

7 NOW THEREFORE, the parties ask the Court to extend the deadline for SSI's and SEA's
8 motions to quash Which?'s and Qualcomm's subpoenas until April 3, 2024. The timing and
9 procedures set forth in Federal Rule of Civil Procedure 45 shall otherwise apply.

10 Dated: February 16, 2024

11 Respectfully submitted,

12 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

13
14 By /s/ Leo D. Caseria
15 LEO D. CASERIA
16 MONA SOLOUKI

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19 SAMSUNG ELECTRONICS AMERICA, INC.
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ATTESTATION

Under Civil Local Rule 5-1(h)(3), I hereby attest under penalty of perjury that the concurrence in the filing of this document has been obtained from the signatories above.

/s/ Leo D. Caseria
LEO D. CASERIA

[PROPOSED] ORDER

GOOD CAUSE APPEARING, IT IS SO ORDERED that:

The deadline for Samsung Semiconductor, Inc. and Samsung Electronics America, Inc. to file a motion to quash the subpoenas served on them by Consumers' Association and Qualcomm Incorporated shall be extended to April 3, 2024. The timing and procedures set forth in Federal Rule of Civil Procedure 45 shall otherwise apply.

Date: _____

HONORABLE EDWARD J. DAVILA
UNITED STATES DISTRICT JUDGE